

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

EVERPORT TERMINAL SERVICES, INC.

and

Case 32-CA-172286

**INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS,
DISTRICT LODGE 190, LOCAL LODGE 1546,
AFL-CIO, AND INTERNATIONAL ASSOCIATION
OF MACHINISTS AND AEROSPACE WORKERS,
DISTRICT LODGE 190, LOCAL LODGE 1414,
AFL-CIO**

**INTERNATIONAL LONGSHORE AND
WAREHOUSE UNION**

and

Case 32-CB-172414

**INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS,
DISTRICT LODGE 190, LOCAL LODGE 1546,
AFL-CIO, AND INTERNATIONAL ASSOCIATION
OF MACHINISTS AND AEROSPACE WORKERS,
DISTRICT LODGE 190, LOCAL LODGE 1414,
AFL-CIO**

ORDER¹

Respondent International Longshore and Warehouse Union and non-party International Longshore and Warehouse Union Local 10's (the Unions) request for special permission to appeal Administrative Law Judge Sharon Levinson Steckler's rulings ordering an in camera review of disputed documents in the Unions' privilege logs and later ordering the production of certain documents to the General Counsel, some in

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

their entirety and others with designated redactions, is granted. On the merits, the appeal is denied. The Unions have failed to establish that the judge abused her discretion in requiring the in camera review of certain documents and the production of some of those documents to the General Counsel.²

Dated, Washington, D.C., August 15, 2017.

PHILIP A. MISCIMARRA,	CHAIRMAN
MARK GASTON PEARCE,	MEMBER
LAUREN McFERRAN,	MEMBER

² Although the Unions argue that the judge lacks authority to enforce the subpoenas duces tecum issued to them and that she improperly found that they waived the attorney-client privilege by failing to meet the May 8, 2017 deadline for the production of documents for in camera review, we need not reach these issues. The judge did not find that the Unions waived their privilege or impose any other sanction based on the Union's late production on May 8; instead, the judge ordered the Unions to produce the documents by May 10, and later further extended the deadline until May 15. In addition, the judge's May 16, 2017 Order does not enforce the subpoenas, but rather requires the Unions to produce some of the disputed documents based on her assessment that those documents are not protected by privilege. Chairman Miscimarra agrees that the judge's order is not a sanction. He also notes that the judge does not have authority under NLRA Sec. 11(2) to order sanctions for failure to comply with a subpoena, and the district courts are responsible for addressing production obligations. *McDonald's USA, LLC*, 364 NLRB No. 144, slip op. at 4 (Member Miscimarra, dissenting) (2016).